

EXHIBIT E

From: Zeke DeRose III <Zeke.DeRose@LanierLawFirm.com>
Sent: Wednesday, October 16, 2024 9:51 AM
To: Kathy Patrick
Cc: Mark Lanier; Marc B. Collier; Ashley Keller; Noah Heinz; MCCALLUM, Robert; Charles M. Rosson; SESSIONS, Justina (JKS)
Subject: Re: Request to Meet and Confer on Two Motions in State of Texas et al v. Google LLC

Hi Rob and Kathy, for the discussion on next steps related to the Supplemental Report on Chats, served back on October 4, we have a proposed schedule to discuss.

States' Proposed Chat Schedule

October 16, 2024 -- Google to confirm in writing if they are serving a rebuttal expert report limited to Dr. Hochstetler's chat report.

October 21, 2024 – Google to serve any rebuttal expert report solely rebutting Dr. Hochstetler chats report.

October 30, 2024 – States to serve any rebuttal report solely rebutting Google's chat rebuttal report.

November 4, 2024 -- Deposition of Dr. Hostetler.

November 11, 2024 – Deposition of Google's chat rebuttal expert.

Google

1. Motion to bifurcate DTPA trial.
2. Date for Google to file Answer to Fourth Amended Complaint before Nov 18 motions practice deadlines.
3. Schedule Status Conference for Rule 16(c)(2) briefing and argument about DTPA issues. a) how the Court will construe different state deceptive trade practice statutes, b) what "counts" as a violation of each statute, c) how violations are to be "counted" for purposes of imposing penalties, and d) whether monetary penalties can be imposed on Google on a "per violation" basis under the DTPA and if individualized harm is required under the DTPA.

States

4. Schedule related to the States' Supplemental Expert Report on Chats served on October 4.
5. Timing on Google producing the MDL's expert reports and Google's yet-to-be submitted expert reports in the MDL.

From: Kathy Patrick <kpatrick@gibbsbruns.com>
Date: Tuesday, October 15, 2024 at 9:13 AM
To: Zeke DeRose III <Zeke.DeRose@LanierLawFirm.com>
Cc: Mark Lanier <Mark.Lanier@LanierLawFirm.com>, "Marc B. Collier" <marc.collier@nortonrosefulbright.com>, Ashley Keller <ack@kellerpostman.com>, Noah Heinz <Noah.Heinz@kellerpostman.com>, "rob.mccallum@freshfields.com" <rob.mccallum@freshfields.com>, "Charles M. Rosson" <CRosson@gibbsbruns.com>, Justina SESSIONS <justina.sessions@freshfields.com>
Subject: Re: Request to Meet and Confer on Two Motions in State of Texas et al v. Google LLC

Sounds good, thank you.

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From: Zeke DeRose III <Zeke.DeRose@LanierLawFirm.com>
Sent: Tuesday, October 15, 2024 9:11:46 AM
To: Kathy Patrick <kpatrick@gibbsbruns.com>
Cc: Mark Lanier <Mark.Lanier@LanierLawFirm.com>; Marc B. Collier <marc.collier@nortonrosefulbright.com>; Ashley Keller <ack@kellerpostman.com>; Noah Heinz <Noah.Heinz@kellerpostman.com>; rob.mccallum@freshfields.com <rob.mccallum@freshfields.com>; Charles M. Rosson <CRosson@gibbsbruns.com>; Justina SESSIONS <justina.sessions@freshfields.com>
Subject: Re: Request to Meet and Confer on Two Motions in State of Texas et al v. Google LLC

External Sender

Hi Kathy. I'm waiting on alternative times for our team we have a few folks in depositions and court this week, but will get you back to you today with dates/times.

From: Kathy Patrick <kpatrick@gibbsbruns.com>
Date: Tuesday, October 15, 2024 at 8:58 AM
To: Zeke DeRose III <Zeke.DeRose@LanierLawFirm.com>
Cc: Mark Lanier <Mark.Lanier@LanierLawFirm.com>, "Marc B. Collier" <marc.collier@nortonrosefulbright.com>, Ashley Keller <ack@kellerpostman.com>, Noah Heinz <Noah.Heinz@kellerpostman.com>, "rob.mccallum@freshfields.com" <rob.mccallum@freshfields.com>, "Charles M. Rosson" <CRosson@gibbsbruns.com>, Justina SESSIONS <justina.sessions@freshfields.com>, Kathy Patrick <kpatrick@gibbsbruns.com>
Subject: Re: Request to Meet and Confer on Two Motions in State of Texas et al v. Google LLC

Hi Zeke -

Could you kindly provide an update on Plaintiffs' position on Google's planned motions for a court conference and to bifurcate?

We would like to get those motions on file this week. Since we have not yet heard Plaintiffs' views, it seems unlikely either motion will be filed jointly.

If there is a real prospect Plaintiffs might agree to either motion, we can be available today or tomorrow to discuss.

Please let us know Plaintiffs' position.

Thanks,

KP

On Oct 11, 2024, at 3:24 PM, Zeke DeRose III <Zeke.DeRose@lanierlawfirm.com> wrote:

External Sender

Hi all,

I just touched base with Rob and let him know that we're working on getting y'all some dates/times that work for our folks.

I know there's also another thread related to the Chats Report so we would like to make sure that when we land on a time that all relevant people can attend.

We'll follow-up with some options.

Zeke

Zeke DeRose III - Attorney p: 713-659-5200 w: www.LanierLawFirm.com

From: Kathy Patrick <kpatrick@gibbsbruns.com>
Date: Thursday, October 10, 2024 at 2:11 PM
To: Mark Lanier <Mark.Lanier@LanierLawFirm.com>, "Marc B. Collier" <marc.collier@nortonrosefulbright.com>, Ashley Keller <ack@kellerpostman.com>, Zeke DeRose III <Zeke.DeRose@LanierLawFirm.com>
Cc: "rob.mccallum@freshfields.com" <rob.mccallum@freshfields.com>, Kathy Patrick <kpatrick@gibbsbruns.com>, "Charles M. Rosson" <CRosson@gibbsbruns.com>, "SESSIONS, Justina (JKS)" <justina.sessions@freshfields.com>
Subject: Request to Meet and Confer on Two Motions in State of Texas et al v. Google LLC

Counsel:

Google shortly intends to file two motions in this matter.

The first motion will ask the Court to exercise his discretion under Fed. R. Civ. P. 42(b) to order a further bifurcation of the trial, so that the jury first considers only the question of Google's alleged liability, with all issues related to the number of violations or the quantum of penalties deferred to a second phase of the trial, if necessary. Judge Jordan has ordered bifurcation in similar circumstances in *Wagoneka v. KT & G USA Corp.*, 2020 WL 6063096 (E.D. Tex. Oct. 14, 2020). We believe bifurcation is appropriate here for the same reasons; namely, that bifurcation is necessary to protect Google from the prejudicial offer of net worth, wealth, and total revenue evidence at the liability phase of the trial.

The second motions asks that the Court to set a Rule 16 Status and Scheduling Conference to discuss case management issues. The issues Google wishes to discuss are:

1. Establishing a date, in advance of the summary judgment deadline, for Google to answer Plaintiffs' Fourth Amended Complaint;
2. Google's Motion to Bifurcate; and,
3. Establishing a schedule under Rule 16(c)(2) to brief, argue, and resolve important statutory construction questions, which are pure

questions of law. These legal issues include: a) how the Court will construe the 17 different state deceptive trade practice statutes at issue in Count VI of the Complaint, b) what “counts” as a violation of each statute, c) how violations are to be “counted” for purposes of imposing penalties, and d) whether monetary penalties can—consistent with the Due Process and Excessive Fines Clauses of the Constitution--be imposed on Google on a “per violation” basis in the absence of proof of individualized harm to ad buyers and ad sellers, as the States appear to claim.

We are of course open to adding other matters to the Status Conference request if you wish, but believe these issues need to be addressed in the near term and before the summary judgment deadline.

We can be available to confer both motions this afternoon at 5 Central or tomorrow morning at either 8 a.m. Central or 10 a.m. Central. Please let us know a time that works for you. If you intend to oppose and believe no conference is necessary, kindly advise us of that so we can get the motions on file.

Best,

KP

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